IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

MONDAY, THE TWENTY FIRST DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 7928 of 2004

Between:
S.Nagabhushana Rao, s/o late Nagendra Babu,
Properties, r/o D.No.59-1-18/1, Ramachandra Nagar, Vijayawada-6.
..... PETITIONER

AND

1 Asst.Executive Engineer (Upper), Gudivada Section, Pamarru, Krishna District.
2 Lock Superintendent, Village Marrivada, Marrivada Mandal, Krishna District Rural.
.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction, more particularly one under Writ of Mandamus, declaring the action of the 2nd respondent in issuing Notice No.4 dated 16-3-2004 as illegal and ultra vires to the provisions of Article 14 of Constitution of India besides directing not to proceed further and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner :MR.V.S.R.ANJANEYULU.

Counsel for the Respondent No.1: The G.P FOR IRRIGATION & COMM AREA DEV.

The Court Made the Following :

ORDER

1. This writ petition is filed by the petitioner aggrieved by the proceedings dated 16-03-2004, under which the petitioner was directed by the second respondent to remove the engine/ motor immediately, which is being used to draw water unauthorisedly from the Ryves or Pulleru canal.

2. According to the learned Counsel for the petitioner, the Government granted permission to the petitioner to draw water from the irrigation channel. Therefore, the petitioner has converted the agricultural land into fishing farm and has been paying water tax at one and half times of the normal rate. Therefore, the respondents have no right to prevent the petitioner from taking water.

3. This contention of the petitioner is opposed by the Learned Government pleader stating that, the petitioner is not entitled to use the motors run either electrically or by oil engines, to draw water from the irrigation channels to the petitioner's land, which is covered under the ayacut of the channels. However, the petitioner can draw water without using any mechanical aid. Therefore, it is contended that the respondents have rightly directed the petitioner to remove the engine or motor, if any.

4. Heard the Learned counsel for both the parties and considered the material on record.

5. Admittedly, the petitioner's lands are classified as single crop wet lands in the village records. The petitioner is entitled to draw water for

agricultural purpose and not for fish farming. Apart from that, the petitioner is not entitled to draw water from the irrigation channels by using mechanical aid. The petitioner has to take water according to the lie of the land as per the existing system, and therefore the petitioner was directed to remove the mechanical aid that is being used by him to draw water. The said action of the respondents is clearly in accordance with law, and the petitioner has no right to assail the said proceedings.

6. Accordingly, the Writ Petition is dismissed as devoid of any merit. No costs.

Jsu/Kvh

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1.The Assistant Executive Engineer(upper), Gudivada Section,
Pamarru, Krishna District.
2.2 CCs to the G.P. for Irrigation and Comm., Area Development, High
Court Buildings, Hyderabad, (OUT)
3.2 CD copies.